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C118 - Convenio sobre la igualdad de trato (seguridad social), 1962 (núm. 118)

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Preámbulo

La Conferencia General de la Organización Internacional del Trabajo,

Convocada en Ginebra por el Consejo de Administración de la Oficina Internacional del Trabajo, y congregada en dicha ciudad el 6 junio 1962 en su cuadragésima sexta reunión;

Habiendo decidido adoptar diversas proposiciones relativas a la igualdad de trato entre nacionales y no nacionales en materia de seguridad social, cuestión que constituye el quinto punto del orden del día de la presente reunión, y

Habiendo decidido que dichas propuestas revistan la forma de una convención internacional,

adopta, con fecha veintiocho de junio de mil novecientos sesenta y dos, el siguiente Convenio, que podrá ser citado como el Convenio sobre igualdad de trato (seguridad social), 1962:

Artículo 1

En esta Convención:

- a) el término **legislación** incluye todas las normas de seguridad social, así como las leyes y reglamentos;
- b) el término **prestaciones** se refiere a todos los beneficios, subvenciones y pensiones, incluidos cualesquiera suplementos o incrementos;
- c) la expresión " **beneficios concedidos en virtud de regímenes transitorios**" significa ya sea los beneficios concedidos a personas que hayan excedido una edad prescrita en la fecha en que entró en vigor la legislación aplicable, o los beneficios concedidos como medida transitoria en consideración de acontecimientos ocurridos o períodos completados fuera de los límites actuales del territorio de un Miembro;
- d) el término **subsidio por fallecimiento** significa cualquier suma global pagadera en caso de muerte;
- (e) el término **residencia** significa residencia ordinaria;
- f) el término **prescrito** significa determinado por o en virtud de la legislación nacional tal como se define en el inciso a) anterior;
- g) el término **refugiado** tiene el significado que se le asigna en el artículo 1 de la Convención sobre el Estatuto de los Refugiados, de 28 de julio de 1951;
- h) el término **apátrida** tiene el significado que se le asigna en el artículo 1 de la Convención sobre el Estatuto de los Apátridas, de 28 de septiembre de 1954.

Artículo 2

1. Todo Miembro podrá aceptar las obligaciones del presente Convenio respecto de una o más de las siguientes ramas de seguridad social para las cuales tenga en vigor una legislación que cubra a sus propios nacionales en su propio territorio:

- (a) atención médica;
- b) prestación por enfermedad;
- c) prestación por maternidad;
- d) prestación por invalidez;
- e) prestación de vejez;
- f) prestación de supervivencia;
- (g) prestación por accidente de trabajo;
- (h) prestación por desempleo; y
- (i) prestación familiar.

2. Todo Miembro para el cual esté en vigor el presente Convenio deberá cumplir con sus disposiciones respecto de la rama o ramas de seguridad social para las que haya aceptado las obligaciones del Convenio.

3. Cada Miembro deberá especificar en su ratificación respecto de qué rama o ramas de seguridad social acepta las obligaciones del presente Convenio.

4. Todo Miembro que haya ratificado este Convenio podrá notificar posteriormente al Director General de la Oficina Internacional del Trabajo que acepta las obligaciones del Convenio respecto de una o más ramas de seguridad social no especificadas en su ratificación.

5. Los compromisos a que se refiere el párrafo 4 del presente artículo se considerarán parte integrante de la ratificación y tendrán fuerza de ratificación a partir de la fecha de notificación.

6. A los efectos de la aplicación del presente Convenio, todo Miembro que acepte las obligaciones del mismo respecto de cualquier rama de la seguridad social que tenga una legislación que prevea prestaciones del tipo indicado en los apartados a) o b) siguientes deberá comunicar al Director General de la Oficina Internacional del Trabajo una declaración indicando las prestaciones previstas por su legislación que considere:

- a) prestaciones distintas de aquellas cuya concesión depende de la participación financiera directa de las personas protegidas o de su empleador, o de un período de actividad profesional que cumpla los requisitos; o
- b) las prestaciones concedidas en virtud de regímenes transitorios.

7. La comunicación a que se refiere el párrafo 6 del presente artículo deberá efectuarse en el momento de la ratificación o en el momento de la notificación de conformidad con el párrafo 4 del presente artículo; en lo que respecta a cualquier legislación adoptada posteriormente, la comunicación deberá efectuarse dentro de los tres meses siguientes a la fecha de adopción de dicha legislación.

Artículo 3

1. Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.

2. In the case of survivors' benefits, such equality of treatment shall also be granted to the survivors of the nationals of a Member for which the Convention is in force, irrespective of the nationality of such survivors.

3. Nothing in the preceding paragraphs of this Article shall require a Member to apply the provisions of these paragraphs, in respect of the benefits of a specified branch of social security, to the nationals of another Member which has legislation relating to that branch but does not grant equality of treatment in respect thereof to the nationals of the first Member.

Article 4

1. Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of social security may be made conditional on residence in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.
2. Notwithstanding the provisions of paragraph 1 of this Article, the grant of the benefits referred to in paragraph 6 (a) of Article 2-- other than medical care, sickness benefit, employment injury benefit and family benefit--may be made subject to the condition that the beneficiary has resided on the territory of the Member in virtue of the legislation of which the benefit is due, or, in the case of a survivor, that the deceased had resided there, for a period which shall not exceed--
 - (a) six months immediately preceding the filing of claim, for grant of maternity benefit and unemployment benefit;
 - (b) five consecutive years immediately preceding the filing of claim, for grant of invalidity benefit, or immediately preceding death, for grant of survivors' benefit;
 - (c) ten years after the age of 18, which may include five consecutive years immediately preceding the filing of claim, for grant of old-age benefit.
3. Special provisions may be prescribed in respect of benefits granted under transitional schemes.
4. The measures necessary to prevent the cumulation of benefits shall be determined, as necessary, by special arrangements between the Members concerned.

Article 5

1. In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of the branch or branches of social security concerned shall guarantee both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions, subject to measures for this purpose being taken, where necessary, in accordance with Article 8.
2. In case of residence abroad, the provision of invalidity, old-age and survivors' benefits of the type referred to in paragraph 6 (a) of Article 2 may be made subject to the participation of the Members concerned in schemes for the maintenance of rights as provided for in Article 7.
3. The provisions of this Article do not apply to benefits granted under transitional schemes.

Article 6

In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of this Convention for that branch, in respect of children who reside on the territory of any such Member, under conditions and within limits to be agreed upon by the Members concerned.

Article 7

1. Members for which this Convention is in force shall, upon terms being agreed between the Members concerned in accordance with Article 8, endeavour to participate in schemes for the maintenance of the acquired rights and rights in course of acquisition under their legislation of the nationals of Members for which the Convention is in force, for all branches of social security in respect of which the Members concerned have accepted the obligations of the Convention.
2. Such schemes shall provide, in particular, for the totalisation of periods of insurance, employment or residence and of assimilated periods for the purpose of the acquisition, maintenance or recovery of rights and for the calculation of benefits.
3. The cost of invalidity, old-age and survivors' benefits as so determined shall either be shared among the Members concerned, or be borne by the Member on whose territory the beneficiaries reside, as may be agreed upon by the Members concerned.

Article 8

The Members for which this Convention is in force may give effect to their obligations under the provisions of Articles 5 and 7 by ratification of the Maintenance of Migrants' Pension Rights Convention, 1935, by the application of the provisions of that

Convention as between particular Members by mutual agreement, or by any multilateral or bilateral agreement giving effect to these obligations.

Article 9

The provisions of this Convention may be derogated from by agreements between Members which do not affect the rights and duties of other Members and which make provision for the maintenance of rights in course of acquisition and of acquired rights under conditions at least as favourable on the whole as those provided for in this Convention.

Article 10

1. The provisions of this Convention apply to refugees and stateless persons without any condition of reciprocity.
2. This Convention does not apply to special schemes for civil servants, special schemes for war victims, or public assistance.
3. This Convention does not require any Member to apply the provisions thereof to persons who, in accordance with the provisions of international instruments, are exempted from its national social security legislation.

Article 11

The Members for which this Convention is in force shall afford each other administrative assistance free of charge with a view to facilitating the application of the Convention and the execution of their respective social security legislation.

Article 12

1. This Convention does not apply to benefits payable prior to the coming into force of the Convention for the Member concerned in respect of the branch of social security under which the benefit is payable.
2. The extent to which the Convention applies to benefits attributable to contingencies occurring before its coming into force for the Member concerned in respect of the branch of social security under which the benefit is payable thereafter shall be determined by multilateral or bilateral agreement or in default thereof by the legislation of the Member concerned.

Article 13

This Convention shall not be regarded as revising any existing Convention.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.

See related
Key Information
Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security (Entry into force: 25 Apr 1964) Adoption: Geneva, 46th ILC session (28 Jun 1962) Status: Up-to-date instrument (Technical Convention). Convention currently open for denunciation: 25 Apr 2024 - 25 Apr 2025
See also
Ratifications by country Submissions to competent authorities by country